**Texas Department of Insurance, Division of Workers' Compensation**
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

# MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

## PART I: GENERAL INFORMATION

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| Requestor's Name and Address:<br>PINE CREEK MEDICAL CENTER<br>9032 HARRY HINES BLVD<br>DALLAS TX 75235 | MFDR Tracking #: M4-10-3756-01<br>DWC Claim #:<br>Injured Employee: |
| Respondent Name and Box #:<br>AMERICAN ZURICH INSURANCE COMPANY<br>Rep Box #: 19 | Date of Injury:<br>Employer Name:<br>Insurance Carrier #: |

## PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

**Requestor's Rationale for Reimbursement**: "The health care services for which payment is in dispute, are documented in the enclosed medical notes…Carrier has denied reimbursement for the billed charges due to lack of referral…Provider's position is that emergency cases do not require referral."

Principle Documentation:

1. DWC 60 package
2. Hospital Bill(s)
3. Explanation of Benefits (EOBs)
4. Medical Records
5. Total Amount Sought $818.70

**Respondent's Position Summary:** "The carrier asserts that it has paid according to applicable fee guidelines. All reductions of the disputed charges were appropriately made. The date of injury for this claim is 10/2/03 and the healthcare services were provided on 04/28/09. Thus, the claimant was not seeking immediate and emergent care following the work-related injury. The provider did not provided sufficient evidence that the services were emergent in nature, and therefore, a referral is needed from the treating doctor. No such referral has been provided. The provider is not entitled to reimbursement."

Principle Documentation:

1. Response package

## PART IV: SUMMARY OF FINDINGS

| Date(s) of Service | Services in Dispute | Calculation | Amount in Dispute | Amount Due |
|---|---|---|---|---|
| 04/28/09 | Hospital Outpatient Surgical Services | APC $329.49 x 200% = Total APC MAR $658.98 - $0.00 (Paid by Respondent) = $658.98 | $818.70 | $658.98 |
| | | | Total Due: | $658.98 |

## PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division Rule §134.403, titled ***Hospital Facility Fee Guideline – Outpatient,*** effective for medical services provided on or after March 1, 2008, set out the reimbursement guidelines for Hospital outpatient services.

This dispute was filed in the form and manner as prescribed by 28 TAC §133.307 and meets the requirements for medical dispute resolution under 28 TAC §133.305 (a)(4).

1. The disputed services were denied or reduced by the insurance carrier based upon:
   Explanation of benefits dated 01/01/10 noted claim reduction codes:
   - 165 — PAYMENT DENIED/REDUCED FOR ABSENCE OF, OR EXCEEDED REFERRAL.
   - 853— PAYMENT DENIED/LACKING REFERRAL.

   Explanation of benefits dated 01/22/10 noted claim reduction codes:
   - 165 — PAYMENT DENIED/REDUCED FOR ABSENCE OF, OR EXCEEDED REFERRAL.
   - 282 — THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERING A BILL.
   - 853 — PAYMENT DENIED/LACKING REFERRAL.
   - W1 — WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.
2. The respondent denied disputed services with reason codes: 165—Payment denied/reduced for absence of, or exceeded referral; 282—The insurance company is reducing or denying payment after reconsideration a bill; 853—Payment denied/lacking referral; and W1—Workers Compensation State Fee Schedule adjustment. The requestor's position statement states "Provider's position is that emergency cases do not require referral." The respondent's position statement asserts that "The provider did not provide sufficient evidence that the services were emergent in nature, and therefore a referral is needed from the treating doctor." Division rule at 28 TAC §180.22(c) states, in pertinent part, that "The treating doctor shall: (1) except in the case of an emergency, approve or recommend all health care rendered to the employee…" Division rule at 28 TAC §133.2(3)(A) states that "a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part." Review of the submitted documentation finds:

   - The emergency nursing triage assessment states "chief complaint: neck – radiating dn left arm"
   - The emergency physician record states "severity: severe 8/10."

   The requestor has supported the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health or bodily functions in serious jeopardy, or serious dysfunction of a body organ or part. The division finds that, having demonstrated a case of emergency, the requestor has met the exception to the requirement that the treating doctor shall approve or recommend all health care rendered to the employee. The Division concludes that the respondent's denial reasons are not supported. The disputed services will therefore be reviewed per applicable rules and fee guidelines.
3. Division rule at 28 TAC §134.403 (e) states in pertinent part, "Regardless of billed amount, reimbursement shall be:

   (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code 413.011; or

   (2) if no contracted fee schedule exists that complies with Labor Code 413.011, the maximum allowable reimbursement (MAR) amount under subsection (f), including any applicable outlier payment amounts and reimbursement for implantables."
4. Pursuant to Division rule at 28 TAC §134.403(f), "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register.* The following minimal modifications shall be applied.
   (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
      (A) 200 percent; unless
      (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent."
5. Upon review of the documentation submitted by the requestor and respondent, the Division finds that:

   (1) No documentation was found to support a contractual agreement between the parties to this dispute;

   (2) MAR can be established for these services; and

   (3) Separate reimbursement for implantables was *NOT* requested by the requestor.

6. Under the Medicare Outpatient Prospective Payment System (OPPS), all services paid under OPPS are classified into groups called Ambulatory Payment Classifications or APCs. Services in each APC are similar clinically and in terms of the resources they require. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC for an encounter. Within each APC, payment for ancillary and supportive items and services is packaged into payment for the primary independent service. Separate payments are not made for a packaged service, which is considered an integral part of another service that is paid under OPPS. An OPPS payment status indicator is assigned to every HCPCS code. Status codes are proposed and finalized by Medicare periodically. The status indicator for each HCPCS codes is shown in OPPS Addendum B which is publicly available through the Centers for Medicare and Medicaid services. A full list of status indicators and their definitions is published in Addendum D1 of the OPPS proposed and final rules each year which is also publicly available through the Centers for Medicare and Medicaid services.
7. Consequently, reimbursement will be calculated in accordance with Division rule at 28 TAC §134.403(f)(1)(A) as follows:

   The APC Medicare Facility Specific Reimbursement Amount including Outlier Payment Amount is $329.49. $329.49 multiplied by 200% = $658.98 (MAR) less $0.00 previously paid by carrier = $658.98 due to requestor.

Based upon the documentation submitted by the parties and in accordance with Texas Labor Code Sec. 413.031 (c), the Division concludes that the requestor is due payment. As a result, the amount ordered is $658.98.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code Sec. §413.011(a-d), §413.031, §413.0311
28 TAC Rule §134.403, §133.307, §133.305, §133.2, §180.22

**PART VII: ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of $658.98 plus applicable accrued interest per Division rule at 28 Tex. Admin. Code §134.130, due within 30 days of receipt of this Order.

| | | **July 16, 2010** |
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| Authorized Signature | Medical Fee Dispute Resolution Officer | Date |

**PART VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed $2,000. If the total amount sought exceeds $2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**